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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Federal-State Joint Board on Universal Service	CC Docket No. 96-45

JOINT REPLY COMMENTS OF BELL ATLANTIC AND NYNEX

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SUMMARY

As many commenters observed, the Joint Board's *Recommended Decision* did not resolve key issues concerning funding and administration of the universal service fund, and certain recommendations on funding exceed the Commission's jurisdiction under the Communications Act in general, and under Section 254 in particular. Many commenters agree that the Commission does not have authority to assess contributions to the fund based on intrastate revenues. Section 2(b) of the Act prohibits the Commission from asserting jurisdiction over intrastate services, absent an unambiguous grant of such jurisdiction elsewhere in the Act, and Section 254 does not unambiguously grant the Commission such jurisdiction with regard to universal service funding.

There is widespread support for a funding mechanism based on retail interstate revenues. In addition, many commenters note that it would be consistent with the principle of competitive neutrality for the Commission to allow carriers to recover their contributions through explicit charges in their bills to end users.

Several commenters propose that the Commission should develop high-cost support using proxy models that disaggregate costs for geographic areas smaller than existing study areas, such as wire centers and census block groups. There are two problems with this approach. First, if unbundled elements are not deaveraged at the same level as universal service support, and if the Commission

provides universal service support to carriers that use unbundled elements to provide service in high-cost areas, new entrants could obtain more revenues from universal service than they have to pay to the incumbent LEC for the unbundled elements. Second, even for areas as small as census block groups, there are significant differences in the distances between many homes and the nearest central office, which causes a large variation in the cost of serving customers in the same census block group.

Because costs vary even for small geographic areas such as census block groups, the Commission should develop universal service by zones, such as the zones used to disaggregate rates for unbundled elements. This would allow the Commission to use the rates for unbundled elements, plus retail service expenses, as the cost benchmark for universal service, rather than proxy costs. This would be more economic than the hypothetical costs produced by proxy models, and it would avoid the arbitrage problem.

Several commenters, including IXCs, CLECs, and incumbent LECs, agreed that it would be inconsistent with the letter and the spirit of the Telecommunications Act of 1996 to extend universal service support to single-line business customers, as recommended by the Joint Board. There is no indication in the Act that Congress intended to extend universal service support to business customers. In addition, there is no evidence that single line business customers need federal universal service support to enable them to obtain or keep telephone service.

The Commission should reject the proposal that non-eligible carriers should be allowed to participate in the Lifeline program. In addition, Lifeline support should be linked to a means test.

Several commenters agree with Bell Atlantic and NYNEX that non-telecommunications carriers who provide inside wire and Internet services are not eligible under Section 254(e) of the Act to receive universal service support.

The Commission should not expand the support for health care providers to subsidize network modernization in rural areas, to support provision of facilities to connect rural areas to databases dozens or hundred of miles away, or to subsidize specially constructed high-capacity facilities. It would be inconsistent with the statutory requirements, and it would be poor public policy, to subsidize large network upgrades with universal service funds.

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The Bell Atlantic Telephone Companies[1] ("Bell Atlantic") and the NYNEX Telephone Companies[2] ("NYNEX") hereby file their Joint Reply to the Comments filed on the Joint Board's *Recommended Decision*[3] in the above-referenced proceeding.

I. Introduction

As many commenters observed, the *Recommended Decision* did not resolve key issues concerning funding and administration of the universal service fund

[1] The Bell Atlantic Telephone Companies are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

[2] The NYNEX Telephone Companies are New York Telephone Company and New England Telephone and Telegraph Company.

[3] In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3, released November 18, 1996.

under Section 254 of the Act. They also pointed out that certain Joint Board recommendations on funding exceed the Commission's jurisdiction under the Communications Act in general, and under Section 254 in particular. The Commission should address these issues in a way that is consistent with the Act and with the right of the carriers to recover their contributions to the fund. In addition, the Commission should adopt a funding mechanism that would be competitively neutral by placing proportionate burdens on all carriers' retail rates for telecommunications services. The Commission should also adopt other proposals, as discussed below, that would be consistent with both the letter and the spirit of Section 254.

II. Carriers Should Recover Their Universal Service Contributions Through An Explicit Surcharge On End User Rates.

There is widespread support for allowing carriers to recover their contributions to the universal service fund through an explicit surcharge on their rates to end users.[4] A surcharge on end user revenues would make universal service support explicit, as required by Section 254(e) of the Act. As AT&T points out, the carriers' contributions to the universal service fund will be passed along to consumers in one way or another.[5] The only question is whether the

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[4] *See, e.g.*, AT&T at pp. 8-9; Sprint at pp. 7-10; WorldCom at p. 20; Bell Atlantic at p. 10; BellSouth at p. 14; US West at p. 45; Alltel at pp. 7-8; NRTA at p. 27; USTA at p. 3; California PUC at p. 13; Vermont PUC at pp. 1-8.

[5] *See* AT&T at p. 8.

costs will be revealed to the consumer through a surcharge on the bill or be buried in the carrier's rates for telecommunications services.

Regardless of whether the Commission adopts a surcharge or another mechanism for recovering universal service costs, it clearly would be consistent with the intent of the Telecommunications Act of 1996 that universal service funding should be "explicit" to allow the carrier to show the amount of universal service support payments that are included in a customer's bill. It would also promote the Joint Board's goal of competitive neutrality, since consumers would be able to judge how much of a carrier's rates reflect universal service obligations rather than the carrier's own costs.[6]

III. Contributions To The Federal Universal Service Fund Should Be Assessed On The Carriers' Interstate Retail Revenues

A. The Commission Should Base Contributions To The Universal Service Fund On Retail Revenues.

There is also widespread support for requiring carriers to contribute to the universal service fund based on their share of retail telecommunications revenues.[7] The Joint Board's proposal to base contributions on gross revenues

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[6] To the extent that universal service contributions are assessed on the basis of interstate access revenues, the Commission should allow price cap LECs to include these costs as exogenous adjustments and to itemize a proportionate share of these costs on a customer's bill.

[7] *See, e.g.*, AT&T at pp. 8-9; NYNEX at p. 16; Sprint at pp. 7-10; WorldCom at p. 20; Bell Atlantic at p. 10; BellSouth at p. 10; SBC at p. 14; US West at p. 45; Alltel at pp. 7-8; NRTA at p. 27; USTA at p. 3; California PUC at p. 13; Vermont PUC at pp. 1-8. As noted below, the commenters disagree in some instances about

net of payments to other carriers would be difficult to administer, because carriers would have to keep track of inter-carrier payments.[8] As Sprint points out, an assessment on retail revenues would result in the same surcharge on end users as would result from netting out payments to other carriers, in one less step.[9]

Several commenters expressed the concern that an assessment on gross revenues net of payments to other carriers would advantage resellers, and discourage carriers from building their own facilities.[10] While resellers would presumably pay indirectly to the fund to the extent that the carriers from whom they purchased facilities would increase their rates to include their universal service contributions, facilities-based carriers might not allocate universal service recovery consistently among their services.[11] The use of retail revenues would be competitively neutral, since it would place proportionate burdens on all carriers' rates in a particular market.

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whether the federal fund should be based on both interstate and intrastate retail revenues, or only interstate retail revenues. In either case, the benefits of assessing retail revenues, rather than some other assessment method, are the same.

[8] *See* Sprint at p. 9; AT&T at p. 9; SBC at p. 17; USTA at p. 16, Bell Atlantic Attachment at pp. 3-4.

[9] *See* Sprint at pp. 9-10; *see also* Bell Atlantic at p. 11 & attached Crandall Decl. at pp. 6-8.

[10] *See, e.g.*, AT&T at p. 9; SBC at pp. 14 - 17; Bell Atlantic at pp. 9-10.

[11] *See* AT&T at p. 9.

B. The Commission Does Not Have The Statutory Authority To Assess Contributions On State Revenues.

Many commenters agree with Bell Atlantic and NYNEX that the Commission should assess contributions to the federal universal service fund based only on interstate revenues.[12] They demonstrated that the Commission does not have authority under the Act to assess contributions on state revenues or to allow for recovery of such contributions through state rates. In addition, it would not be competitively neutral for the Commission to assess contributions on the state revenues of carriers that provide interstate telecommunications services, because carriers that provided solely intrastate services would be exempt.

Other commenters argue that the Commission has the statutory authority to assess contributions on the intrastate revenues of interstate carriers, and that it would be consistent with the goals of universal service to do so.[13] None of their arguments is convincing. As to the Commission's legal authority, they argue that Section 254(d) gives the Commission authority to assess contributions on the intrastate revenues of interstate carriers because it does not say that the Commission <u>cannot</u> do so. However, it takes much more than that for the

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[12] *See, e.g.*, New York PSC at pp.3-8; IXC Communications at p. 4; Frontier at p. iv; SBC at p. 14; Alltel at pp. 6-7; California PUC at p. 13; Illinois PUC at pp. 2-7; Iowa Utilities Board at p. 5; Kentucky PUC at p. 4; Missouri PSC at pp. 4-7; Utah PUC at pp. 3-5.

[13] *See, e.g.*, AT&T at pp. 5-8; MCI at pp. 10-11; US West at pp. 16-21; USTA at pp. 17-18; ALTS at pp. 9-13.

Commission to exert jurisdiction over intrastate rates, which it must do if it intends to allow the carriers to recover their universal service contributions. Under Section 2(b) of the Act, the Commission has no jurisdiction over intrastate services, unless another section of the Act unambiguously gives it such jurisdiction.[14] Section 254(d) does not clearly give the Commission such authority -- it does not mention intrastate services at all, and the reference to intrastate carriers in the earlier Senate bill was eliminated in conference. As the Iowa Utilities Board points out,

> In the absence of clear authority to assess intrastate revenues, the assessment for support of these two distinct funds [the interstate fund in Section 254(d) and the state funds in Section 254(f)] is to follow traditional jurisdictional lines set by Congress in Section 152(b); the FCC may assess interstate revenues and the states may assess intrastate revenues. Nothing in the statute allows the FCC to usurp the state's authority and make assessments on intrastate revenues.[15]

The commenters' arguments that it would be good policy, or more fully carry out the purposes of Section 254, if the Commission assessed both interstate and intrastate revenues, cannot overcome the Commission's lack of statutory authority over intrastate rates. Moreover, these arguments are insubstantial. The commenters claim that it is necessary for the Commission to broaden the base of contributions to create a fund that is "sufficient" to preserve and advance universal service, as required by Section 254(d).[16] However, Section 254(b)(5)

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[14] *See* Louisiana Pub. Serv. Comm'n v. FCC, 476 U.S. 355, 377 (1986).
[15] Iowa Utilities Board at p. 6.
[16] *See, e.g.*, AT&T at p. 6.

clearly states that there should be both federal and state mechanisms that would be sufficient to preserve and advance universal service, not that the federal mechanism alone should accomplish this task. A broadly-based fund is only necessary if the Commission thinks that it has to do the whole job, which it does not. The Commission can and should establish a fund that would be sufficient to recover the interstate portion of the costs of serving high-cost areas, leaving the states to develop complementary funds to support the state portion of these costs.

Some commenters claim that the LECs would have a competitive advantage if the Commission did not assess intrastate revenues.[17] Just the opposite is true. If the Commission assessed intrastate revenues, the LECs would be at a competitive disadvantage with regard to carriers that provided only intrastate services (who would pay nothing into the fund), and they would be taxed twice, once to support the federal fund, and again to support the state funds.[18] Since the LECs will be subject to both federal and state funds, they would not have any competitive advantage if the funds were confined to their respective jurisdictions. In both jurisdictions, the LECs would have the same contribution burden as other carriers providing service in those jurisdictions.

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[17] *See, e.g.*, AT&T at pp. 6-7; Sprint at p. 6; LCI at pp. 3-4; MCI at pp. 9-10; Teleport at p. 11; Time Warner at p. 7; WorldCom at p. 20.

[18] *See* Bell Atlantic at p. 7; Kentucky PSC at p. 2; Delaware PSC at p. 2.

IV. The Commission Should Prevent Arbitrage By Basing Universal Service Support On The Rates For Unbundled Elements Plus Additional Customer Service Expenses.

Several commenters propose that the Commission should develop high-cost support using proxy models that disaggregate costs for geographic areas smaller than existing study areas, such as wire centers and census block groups ("CBGs").[19] In addition to the fact that proxy costs do not reflect the actual cost of providing service in any geographic area, there are two problems with this approach. First, the commenters fail to deal with the problem of arbitrage between the amount of universal service support and the rates for unbundled network elements. If unbundled elements are not deaveraged at the same level as universal service support, and if the Commission provides universal service support to carriers that use unbundled elements to provide service in high-cost areas, new entrants could obtain more revenues from universal service than they have to pay to the incumbent LEC for the unbundled elements. Second, even for areas as small as census block groups, there are significant differences in the distances between many homes and the nearest central office, which causes a large variation in the cost of serving customers in the same CBG. For this reason, proxy models that attempt to develop a uniform cost of serving homes in a CBG can target high-cost support to customers that are actually in low-cost areas.

[19] *See, e.g.*, MCI at p. 2; Sprint at pp. 4-5; US West at p. 24.

A. The Commission Should Adopt The Same Level Of Disaggregation For Universal Service Support As Is Used To Develop Rates For Unbundled Elements.

In its initial comments, NYNEX demonstrated the arbitrage problem by comparing a hypothetical $38.42 rate for unbundled elements in rural areas of New York State to the costs of serving wire centers in rural areas, which varied from $23.98 to $149.54 per month.[20] It would make no sense for the Commission to allow a new entrant to purchase unbundled elements for $38.42 in the highest cost wire centers, and to obtain universal support based on a cost of $149.54, while NYNEX continued to incur costs of $149.54 in those high-cost wire centers without any universal service support.

For this reason, universal service support will be undermined unless the Commission (1) ensures that universal service support is disaggregated at the same geographic level as the rates for unbundled elements; or (2) provides high-cost support only to carriers that provide universal service with their own facilities, and not through the purchase of unbundled elements. In addition, Carriers that provide service through a combination of resale and their own facilities should not receive universal service support for those customers that they serve only through resold services, since they purchase wholesale service at a discount from retail rates that already are below cost due to universal service subsidies.[21]

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[20] *See* NYNEX at pp. 33-34.

[21] *See, e.g.*, USTA at p. 24; NYNEX at p. 36 n.57;

B. Small Geographic Areas Such As Census Block Groups Often Contain Large Variations In Costs.

The proponents of proxy models contend that the models accurately target high cost areas because they identify costs for small geographic areas where customers are approximately the same distance from the central office.[22] However, while this may be accurate for some rural areas, where customers in high cost neighborhoods are generally far from the central office,[23] it does not represent costs accurately for areas such as the Northeast and Mid-Atlantic. In many areas, the CBG is shaped irregularly, with some customers relatively close to the central office, while others are very far away.

The map in Attachment B illustrates this point for the New Paltz wire center and its surrounding wire centers. One would expect, when looking at the CBGs within a given wire center, that the CBGs closer to the wire center would exhibit lower costs, and that costs would gradually increase as CBGs were farther away from the wire center. However, as the map shows, some CBGs that include customers in relatively close proximity to the wire center in New Paltz are characterized by the BCM2 as high cost. Additionally, these CBGs are adjacent to CBGs of similar or greater distance from the same wire center that are

[22] *See, e.g.*, SBC at p. 30; USTA at p. 24; BellSouth at pp. 16-17; Pacific Telesis at pp. 12-13; Texas PUC at pp. 5-6; US West at p. 13; NRTA at pp. 16 - 17.

[23] *See, e.g.*, Attachment A, which provides a map of the census block groups in LaJunta Colorado. In this map, the high-cost CBGs are all farther from the wire center than the low-cost CBGs.

characterized by the BCM2 as low cost.[24] Thus, high cost CBGs will include many customers that are low-cost, and low-cost CBGs will have many customers that are high cost. It is clear from this example that averaging costs by CBGs does not accurately group customers that are high or low cost.

C. Proxy Models That Estimate Costs By Census Block Groups Produce Anomalous Results By Carrier And By State.

Our concerns with basing universal support on small geographic areas are magnified when we examine the differences in the results of the BCM2 and Hatfield proxy models, which both use average CBG costs for targeting high cost areas. In comparing these models, most commenters assume that the models are designed to produce different levels of support, since the BCM2 estimates total universal service funding of $7.425 billion, while the Hatfield Model would only require funding of $2.652 billion. However, most of this difference is due to the fact that the Hatfield Model only includes costs for the RBOCs, while the BCM2 includes the costs of all incumbent LECs. BCM2 data just for the RBOCs only total $3.317 billion, as is shown in Chart 2 below. We recognize that there are differences between the two models which can account for this $665 million

[24] Compare the New Paltz CBGs in the $70 to $80 cost range with the CBGs in the $30 to $40 cost range, which both have some customers that are located within the same distance of the New Paltz wire center. Other wire centers, such as Ellenville, High Falls, and Kerhonkson, also show that CBGs are not evenly distributed around the wire center.

difference in total RBOC funding levels.[25] However, this does not explain the dramatic differences in universal service support levels for a given RBOC between the two models, which both purport to identify costs by CBG. As can be seen in Chart 2, four of the RBOCs receive far less support under the Hatfield Model, while three receive considerably more. These inconsistencies cast doubt on the ability of proxy models to reliably target high-cost areas.

Chart 2[26]

Comparison of RBOC Funding Levels Between BCM2 and Hatfield Models
Using $30 Benchmark
All Dollars in Thousands (000)

RBOC	BCM2 Model	Hatfield Model	Funding Difference
Ameritech	$ 377,904	$ 272,290	$ (105,614)
Bell Atlantic	$ 417,184	$ 109,157	$ (308,027)
BellSouth	$ 887,185	$ 431,057	$ (456,128)
NYNEX	$ 460,032	$ 96,150	$ (363,882)
Pacific	$ 193,118	$ 249,906	$ 56,788
SBC	$ 440,108	$ 682,682	$ 242,574
US West	$ 541,725	$ 811,084	$ 269,359
Total	$ 3,317,256	$ 2,652,326	

Additionally, individual state funding levels vary dramatically between the BCM2 Model and the Hatfield Model. Chart 3 illustrates how individual

[25] These differences include; (1) different line counts; (2) different input assumptions; and (3) different zone applications. Hatfield applies CBGs to one of six zones for the development of an average zone cost.

[26] Source: Hatfield Costs obtained from Telecommunications Industries Analysis Project (TIAP) - Response to Request from NARUC Committee, December 4, 1996, revised December 13, 1996, Figure 3, page 15; BCM2 costs obtained form NYNEX analysis of BCM2 Model - USF Funding Levels based on average monthly cost at CBG level and $30 Benchmark.

states could potentially win or lose simply based on the selection of a proxy model;

Chart 3

Comparison of State Funding Levels Between BCM2 and Hatfield Models[27]
Using $30 Benchmark
All Dollars in Thousands (000)

State	BCM2 Model	Hatfield Model	Funding Difference
Michigan	$ 139,411	$ 56,298	$ (83,113)
Ohio	$ 74,177	$ 33,863	$ (40,314)
Delaware	$ 13,902	$ 41	$ (13,861)
Maryland	$ 56,844	$ 310	$ (56,534)
Pennsylvania	$ 118,182	$ 28,124	$ (90,058)
Florida	$ 98,368	$ 43,852	$ (54,516)
Massachusetts	$ 85,358	$ 32	$ (85,326)
New York	$ 188,978	$ 67,433	$ (121,545)
Missouri	$ 76,832	$ 130,198	$ 53,366
Texas	$ 181,747	$ 275,750	$ 94,003
Nebraska	$ 23,282	$ 80,360	$ 57,078

These anomalies demonstrate these proxy models have inherent problems that are not evident from an examination of the methodology and assumptions. While the models give the appearance of precision, they do not consistently group high cost customers, and they produce unexplainable differences in support among carriers and among states. Therefore, the Commission should not rely upon any of the existing models to develop high-cost support.

[27] Attachment C contains a comparison of funding levels between BCM2 and Hatfield for all states.

D. The Commission Could Use The Rates For Unbundled Network Elements As The Basis For Universal Service Support.

Because costs vary even within small geographic areas such as CBGs, the Commission should consider developing universal service support by zones, such as the zones used to disaggregate rates for unbundled elements. This would have three advantages. First, it would avoid the administrative difficulties in administering different support levels for hundreds of CBGs in each state. Second, it would allow the Commission to use the rates for unbundled elements as the cost benchmark for universal service, rather than using proxy models. This would be more economic than the hypothetical costs produced by proxy models, assuming that the rates for unbundled elements reflected determinations by each state as to the costs of the underlying facilities that the carriers would use to provide universal service. Third, the arbitrage problem would be avoided, because purchasers of unbundled network elements would receive universal service support commensurate with the rates for those elements.

If the Commission based universal service support on the rates for unbundled network elements, it would have to add "customer care" costs, *i.e.*, the costs of retail marketing and customer service that are not included in the costs of unbundled elements and other costs that are incurred by the LEC in providing universal service to retail customers.[28] These costs would be compared to the benchmark to determine the amount of support that was needed in each high cost area.

E. The Commission Should Adjust The Benchmark For The Amount By Which Costs Are Below The Benchmark In Low-Cost Areas.

If the Commission follows this approach, it should adjust the benchmark to recognize the fact that costs in high-density, low-cost zones will be well below the benchmark.

As NYNEX proposed in its initial comments, a carrier that receives universal service funds should use those funds to reduce its rates for services which currently provide implicit support for universal service.[29] Incumbent LECs also support universal service through rate averaging -- rates for basic telephone service in low-cost areas are the same as in high cost areas within a state. Since a LEC that receives revenues from the universal service fund probably will not reduce its rates for basic telephone service in low-cost areas, the difference between cost and existing rates will continue to support basic telephone rates in high cost areas. Therefore, the Commission should calculate the difference between the cost of unbundled network elements and the

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[28] This amount could be determined by reference to the discount between retail and wholesale rates determined by the state under Section 252(d)(3) of the Act.

[29] *See* NYNEX at p. 11, 28.

benchmark in low-cost areas, and divide it by the number of lines in those areas, to develop a per-line support amount. This per-line amount should be added to the nationwide benchmark to create an adjusted benchmark. The carrier should receive support only for the amount by which costs exceed the adjusted benchmark.

For example, assume that the nationwide benchmark for residence customers was set at $30 per month. NYNEX has used the BCM2 to estimate that 60% of customers are in CBGs with costs less than $30. For those customers, the average monthly cost is $22. If the local exchange rates for those customers were not reduced, they would continue to provide indirect support for local exchange rates in the high-cost areas. The $8 difference between the $30 benchmark and the cost in low cost CBGs, times the number of lines in those CBGs, divided by the number of lines in the high-cost CBGs, equals $10.50. Therefore, the benchmark for residence customers could logically be increased by about $10.00 to incorporate the contribution from rates paid by end users in low cost areas.[30]

V. Universal Service Support Should Not Be Available For Single-Line Business Customers.

The Joint Board recommended that the Commission provide high-cost support for single line business lines in addition to primary residence lines.[31] Several commenters, including interexchange carriers, competitive LECs,and

[30] This is illustrated in Attachment D.
[31] *See Recommended Decision* at para. 91.

incumbent LECs, agreed that this would be inconsistent with the letter and the spirit of the Telecommunications Act of 1996.[32] Section 254(c)(1)(B) states that, in defining universal service, the Commission shall consider the extent to which such telecommunications services "have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers." There is no indication in the Act that Congress intended to extend universal service support to business customers.

In addition, there is no evidence that single line business customers need federal universal service support to enable them to obtain or keep telephone service. As noted by ALTS, it is almost inconceivable that there would be businesses for whom the cost of a single telephone line would be prohibitive, given that the cost of telephone service is a deductible business expense and given the value of telecommunications services as a tool for reaching customers.[33] Telecommunications expenses are another cost of doing business. There is no evidence that small businesses will drop off the network or refrain from purchasing basic telephone service without universal service support.

The cost of subsidizing single line business lines would inflate the size of the universal service fund. As pointed out by Sprint, excessive universal service subsidies would result in pricing distortions, to the detriment of universal

[32] *See, e.g.*, Sprint at p. 14; Teleport at pp. 3-4; ALTS at p. 5; LCI at p. 5; Ameritech at p. 3.

[33] *See* ALTS at p. 5.

service and competition in both the local and long distance markets.[34] Ultimately, universal service costs must be recovered in end user rates. An unduly large fund would indirectly harm universal service by inflating the rates for telecommunications services used by residential customers. Considering the amounts of support that will be needed for high cost areas, schools, libraries, health care providers, and low-income customers, the Commission should not include unnecessary funding for business customers.

VI. The Commission Should Not Provide Lifeline Support For Non-Eligible Carriers.

The California PUC proposes that all carriers, not just eligible carriers, should be able to participate in the federal Lifeline program.[35] The Commission should reject this proposal. The Joint Board found that the Lifeline program should be folded into the Section 254 universal service funding mechanism, and that carriers who are eligible under Section 214(e)(1) of the Act for universal service support must offer Lifeline assistance to eligible low-income customers.[36] The Commission should not provide support from the fund for carriers that are not eligible under Section 214(e)(1).

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[34] *See* Sprint at p. 3.

[35] *See* California PUC at pp. 11-12.

[36] *See Recommended Decision* at paras. 155, 381, 417. Customers should be classified as low income only if they satisfy a means test.

VII. The Commission Should Adopt A More Reasonable Fund For Schools And Libraries.

Several commenters agree that the Joint Board's proposal for a $2.25 billion fund for schools and libraries is excessive, and that the fund needs to be targeted more narrowly.[37] In addition, it would be difficult for schools and libraries to raise the additional money for hardware, software, content and professional development to achieve the full classroom goal in the time frame assumed by the Joint Board. The Commission should adopt a more feasible goal of reaching the full classroom model by the year 2005. This would result in an initial fund of approximately $1.5 billion per year for the first 10 years, after which the fund could be reevaluated.[38]

Several commenters agree with Bell Atlantic and NYNEX that non-telecommunications carriers who provide inside wire and Internet services are not eligible to receive universal service support.[39] Under Section 254(e) of the Act, only "telecommunications carriers" may receive support from the universal service fund. As the Internet Consumers group points out, it "is inherently unstable and open to possible appellate challenge" for non-telecommunications

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[37] *See, e.g.,* Cincinnati Bell at pp. 11-13; Citizens Utilities at pp. 16-17; WorldCom at p. 27; Frontier at p. 12; Ad Hoc at pp. 29-32.

[38] *See* NYNEX at p. 39.

[39] *See, e.g.,* ALTS at p. 17; Bell Atlantic at pp. 20-21; NYNEX at p. 40; BellSouth at pp. 20-22; GTE at p. 94; Pacific at pp. 38, 40; SBC at pp. 47-49; USTA at pp. 34-35; AT&T at p. 20; WorldCom at p. 28; MFS at p. 32; California Dept. of Consumer Affairs at pp. 28, 30.